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IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

NO. 854

WILLIAM H. HARRISON, KENNETH YOUTZ, WILBUR MEAD, LEWIS F. HANSON and CARL EMRICH,

Appellants

VS.

HARRY H. SCHAEFER, ADRIAN W. REYNOLDS, BURTON W. MARSTON, PATRICK H. MEENAN, DARLENE ELIOTT, RALPH A. URBIGKIT and EDWIN H. WHITEHEAD, THYRA THOMSON, as Secretary of State of the State of Wyoming, THYRA THOMSON, MINNIE A. MITCHELL and EVERETT T. COPENHAVER, as members of the Board of the State Board of Election Canvassers, and CLIFFORD P. HANSEN, as Governor of the State of Wyoming,

Appellees

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF WYOMING

JURISDICTIONAL STATEMENT

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JURISDICTIONAL STATEMENT

COME NOW, the appellants above named, by their counsel, and, under and in pursuance of Rule 15 of the Rules of the Supreme Court, make the following jurisdictional statement.

1. (a) This appeal arises from and upon the Judg-

ment of The United States District Court for the District of Wyoming, sitting as a Court of three Judges properly convoked under the statutes in such cases applicable, which Opinion and Judgment were rendered and entered October 8, 1965, and which is not yet reported. Theretofore, on November 27, 1964, the same Court of three Judges, in the same action, had rendered an Opinion and Judgment, which appears reported in 240 F. Supp. 247 (1964), under the title, *Schaefer vs. Thomson*. The first Opinion appears in Appendix "A," hereinafter, and the Opinion of the Court herein appealed from, together with Appendix "A" and Appendix "B" thereto, together with the Judgment of the Court appear hereinafter as Appendix "B" and "B(1)," respectively.

JURISDICTION

1. (b) The grounds upon which the jurisdiction of this Honorable Court as invoked are as follows:

(i) This is a proceeding on appeal from a final Judgment of a three-Judge Court, involving the granting of injunctive and other equitable relief with reference to the alleged unconstitutionality of Statutes and constitutional provisions of the State of Wyoming, and the appeal is taken under and in pursuance of Section 1253, 28 U.S.C. as follows:

"Section 1253. Direct appeals from decisions of three-Judge Courts. Except as otherwise provided by law, any party may appeal to the Supreme Court from an Order granting or denying, after notice and hearing, an interlocutory or permanent injunction in any civil action, suit or proceeding required by any Act of Congress to be heard and determined by a District Court of three Judges."

The action is one which directly involves the question of legislative apportionment, and the constitutional validity, under the Fourteenth Amendment to the Constitution of The United States, of the decision of the three-Judge Court entered on October 8, 1965. The effect of the decree of the Court was to apportion

the Senate of the State of Wyoming and to create legislative districts. The matter is essentially one of first impression and involves the question of invidious discrimination and denial of equal protection of the laws under the Fourteenth Amendment to the Constitution of The United States of America. The suit was originally brought under 28 U.S.C. Section 1343 (3) & (4), 28 U.S.C. Section 2201-2202, 42 U.S.C. Section 1983 & Section 1988.

(ii) The Judgment sought to be reviewed was filed and entered on October 8, 1965 in the District Court for the District of Wyoming. A rehearing was not requested by any of the parties. The time of appeal is believed to be governed by 28 U.S.C. Section 2101, which provides that the appeal shall be taken within thirty days after entry of the Final Order, Judgment or Decree. The Notice of Appeal was filed in the United States District Court for the District of Wyoming on November 4, 1965.

(iii) It is believed that Section 1253 of Title 28, United States Code, confers jurisdiction of this appeal.

(iv) Cases believed to sustain the jurisdiction of this Court are as follows:

Baker vs Carr, 369 U.S. 186, 7 L.ed 2nd 663, 82 S.Ct. 691 (1962)

Lucas vs Forty-Fourth General Assembly of Colorado, 377 U.S. 713, 12 L.ed. 2d 632, 84 S.Ct. 1472 (1964)

Reynolds vs Sims, 377 U.S. 533, 12 L.ed. 2d 506, 84 S.Ct. 1362 (1964)

Gray vs Sanders, 372 U.S. 368, 9 L.ed. 2d 821, 83 S.Ct. 801 (1963)

Fortson vs Dorsey, 379 U.S. 433, 13 L.ed. 2d 401, 85 S.Ct. 498 (1965)

The appellants believe that the appeal falls clearly within the language set forth by the United States Supreme Court in *Fortson vs Dorsey*, as follows:

"It might well be that, designedly or otherwise, a multi-